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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,594	02/18/2004	Thomas Francis Doyle	020122	6306
23596 7590 11/03/2009 QUALCOMM INCORPORATED 5775 MOREHOUSE DR. SAN DIEGO, CA 92121				
EXAMINER NGUYEN, TUAN HOANG				
ART UNIT 2618		PAPER NUMBER		
NOTIFICATION DATE 11/03/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

us-docketing@qualcomm.com

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### Office Action Summary

**Application No.**

10/782,594

**Applicant(s)**

DOYLE ET AL.

**Examiner**

TUAN H. NGUYEN

**Art Unit**

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 6-9, 17-19, 22-25, 38 and 41-45 is/are pending in the application.
- 4a) Of the above claim(s) 4, 5, 10-16, 20, 21, 26-37, 39 and 40 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 6-9, 17-19 and 22-25 is/are allowed.
- 6) ☒ Claim(s) 38 and 41-45 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Final Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Response to Arguments***

1. Applicant's arguments, see applicant's remarks, filed on 06/29/2009, with respect to the rejection(s) of claims 1-3, 6-9, 17-19, 22-25, 38 and 41-45 under 35 U.S.C. § 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made.
2. The application has been cancelled claims 4, 5, 10-16, 20-21, 26-37 and 39-40.

***Specification***

3. The disclosure is objected to because of the following informalities:

Paragraphs [1008], [1009] and [1010] on page 2 are recited "...a signal-bearing medium tangibly embodying a program of machine-readable instructions executable by a digital processing apparatus...". Appropriate corrections are required.

Paragraph [1021] on page 4 is recited "...Memory 208 may be considered a signal-bearing medium...". Appropriate corrections are required.

***Claim Rejections - 35 USC § 101***

4. Claims 38 and 41-45 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 38 and 41-45 are claimed "...a signal-bearing medium tangibly embodying a program of machine-readable

instructions executable by a digital processing apparatus to perform a method...".

However, they are drawn to claim "a signal" which is no-statutory under 35 USC 101.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 38 and 41-45 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention. Claim 38 and 41-45 are not properly described in the application as filed, and the specification was not contain a written description "...a signal-bearing medium tangibly embodying a program of machine-readable instructions executable by a digital processing apparatus to perform a method...".

***Reasons for Allowance***

7. Claims 1-3, 6-9, 17-19 and 22-25 are allowed over the prior art record.
8. The following is an examiner's statement of reasons for allowance:

The applicant's remarks, filed on 06/29/2009 have been carefully reviewed with updated search. Consequently, reasons for allowance of claims 1-3, 6-9, 17-19 and 22-25 are set forth in according to the applicant's remarks state on pages 8 and 9.

***Conclusion***

9. Any response to this action should be mailed to:

Mail Stop\_\_\_\_\_ (Explanation, e.g., Amendment or After-final, etc.)

Commissioner for Patents

P.O. Box 1450

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Facsimile responses should be faxed to:

(571) 273-8300

Hand-delivered responses should be brought to:

Customer Service Window

Randolph Building

401 Dulany Street

Alexandria, VA 22313

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan H. Nguyen whose telephone number is (571)272-8329. The examiner can normally be reached on 8:00Am - 5:00Pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Maung Nay A. can be reached on (571)272-7882882. The fax phone

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number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information Consider the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Tuan H. Nguyen/  
Examiner  
Art Unit 2618